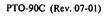


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APPLICATION NO.	F	TLING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/057,847		01/25/2002	Jordi Gracia Ferrer	251502007500	1577	
25226	7590	07/15/2003				
		ERSTER LLP	EXAMINER			
755 PAGE MILL RD PALO ALTO, CA 94304-1018				BERCH, N	BERCH, MARK L	
				ART UNIT	PAPER NUMBER	
	,			1624		
	•			DATE MAILED: 07/15/2003	8	

Please find below and/or attached an Office communication concerning this application or proceeding.



		Application No.	Applicant(s)				
-	Office Action Summer	10/057,847	GRACIA FERRER ET AL.				
	Office Action Summary	Examiner	Art Unit				
		Mark L. Berch	1624				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  Status							
1)	Responsive to communication(s) filed on	<u> </u>					
2a) <u></u> □	This action is <b>FINAL</b> . 2b)⊠ Thi	s action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Disposition of Claims							
4)⊠ Claim(s) <u>1-16,18-20 and 23</u> is/are pending in the application.							
_	4a) Of the above claim(s) is/are withdrawn from consideration.						
	Claim(s) is/are allowed.						
	) Claim(s) is/are rejected.						
7)[	Claim(s) is/are objected to.						
8) Claim(s) 1-16, 18-20, 23 are subject to restriction and/or election requirement.							
	on Papers						
9) The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.							
11)[			ved by the Examiner.				
If approved, corrected drawings are required in reply to this Office action.							
12) The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. §§ 119 and 120							
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a) All b) Some * c) None of:							
	1. Certified copies of the priority documents have been received.						
	2. Certified copies of the priority documents have been received in Application No						
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>							
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).							
a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.							
Attachment(s)							
1)  Notic 2)  Notic	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal P	(PTO-413) Paper No(s) atent Application (PTO-152)				
S. Patent and Tr							

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## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12, 18-20, 23, drawn to tricyclic compounds, synthesis, and use, classified in class 544; 514, subclass 251; 267.
- II. Claims 13-16, drawn to bicyclic compounds, classified in class 544, subclass 267, 271.

The inventions are distinct, each from the other because of the following reasons:

The groups are distinct as seen by the greatly differing chemical structures, as evidence by the different number of heteroatoms in the heterocyclic ring system (6 in Group I, four in Group II), and the different numbers of rings.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Shantana Assa on 7/3/2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark L. Berch whose telephone number is 703-308-4718. The examiner can normally be reached on M-F 7:15 - 3:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on 308-4716. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 708-308-1235.

Mark L. Berch Primary Examiner Art Unit 1624

July 10, 2003